(4) (1)

C.S. 1602

BEFORE THE HIGH COURT OF CHHATISHGARH

AT BILASPUR

IN THE MATTER OF W.P. No 3409 2004

LAXMI NARAYAN DUBEY,
OFFICE ASSISTANT GRADE-I
OFFICE OF THE SR.ACCOUNTS
OFFICER, M.P.E.B (NOW CSEB)
BILASPUR, NOW RETIRED,
R/O. BEHIND SANTOSH
BHUWAN HOTEL DABRIPARA,
BILASPUR (C.G.) **PETITIONER**

VERSUS

1. MADHYA PRADESH STATE ELECTRICITY BOARD, THROUGH SECRETARY MPEB, RAMPUR JABALPUR (M.P.)

2. CHHATTISGARH STATE ELECTRICITY BOARD THROUGH SECRETARY C.S.E.B., DAGANIA, RAIPUR (C.G.)

3. STATE OF CHHATTISGARH, THROUGH SECRETARY TO THE DEPARTMENT OF ENERGY & POWER, DKS BHAWAN , MANTRALYA RAIPUR (C.G)

4. LABOUR COURT BILASPUR, RAJIVE GANDHI MARG, OPPOSITE OLD S.B.R.COLLEGE, BILASPUR

5. STATE OF M.P. THROUGH THE SECTRETARY ENERGY AND POWER,

:::::

P.R. No. 3313/04
Presented by Shri Dubey
dated 16-9-04

Senior Clerk
Clerk to A. G. Bilaspur
16/9/04

(3) (2)

VALLABH BHAVAN,
BHOPAL(M.P)

6. UNION OF INDIA,
THROUGH THE SECRETARY
TO THE GOVT. OF INDIA
MINISTRY OF
ENERGY AND POWER,
NEW DELHI RESPONDENTS

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT/ORDER OR DIRECTION AS DEEM FIT

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 3409 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

28/01/2005: -

Shri Pradeep Saksena learned counsel for the petitioner.

Heard on I.A. No.7239 of 2004 which is an application for urgent hearing.

The matter is taken up on Board. I.A. No.7239 of 2004 stands disposed of.

Heard on the question of admission of this writ petition.

The present petition has been filed against the impugned order dated 15/03/2004 (Annexure-P/8) by which the Labour Court has dismissed the application of the petitioner field under Section 34 of the Chhattisgarh Industrial Relations Act, 1960 *(for short 'the Act')*.

Learned counsel appearing for the petitioner submits that the petitioner was retired during the pendency of the proceedings before the said Court. Learned counsel further submits that since the petitioner is no more employee of the concerned department he will not have the remedy to file an appeal before the Industrial Court.

Heard learned counsel for the petitioner at length.

Section 65 (1)(a) of the Act defines the provisions of appeal which is reproduced hereunder:

(69)

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मामला क्रमांक W.P. 3409 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

65. Appeal.- (1) Notwithstanding anything contained in the Act, an appeal shall lie to the Industrial Court –

(a) against a final decision of a Labour Court in respect of a matter falling under clause (a) or clause (c) of paragraph (A) or paragraph (B) or paragraph (C) of sub-section (1) of section 61 by the person affected or the representative of employees or the employer;

(b) against a conviction by a Labour Court, by the person convicted

Clause (a) of Sub-section (1) of Section 65 of the Act defines that an appeal shall be filed by a person affected or the representative of employees or the employer, as the case may be. Since order has been passed against the interest of the petitioner, therefore, in the opinion of this Court, the petitioner can well be classified within the definition of the person affected and shall have a right to file an appeal. Since the petitioner is having an alternative remedy to file an appeal before the Industrial Court and he has approached this Court without existing the aforesaid remedy, this Court is of the opinion that this petition should be disposed of with a direction that the petitioner may avail the remedy under the law and if any grievance remains after the said remedy he may approach this Court again.

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मामला क्रमांक W.P. 3409 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	At this stage of order, learned counsel for the petitioner submits that by now, the limitation for filing the appeal has been expired and some observations may be made in this respect also. Suffice it to say that the petitioner may file an appeal before the Industrial Court and may also file an application for condonation of delay in accordance with law and if such an application is filed, the Court shall hear and decide the same under the provisions of law. With the aforesaid observations, this petition stands disposed of. Sd/- Sunil Kumar Sinha Judge	